

WATER QUALITY TEAM MEETING NOTES

**January 16, 2001
National Marine Fisheries Service Offices
Portland, Oregon**

Introductions and Review of the Agenda.

Mark Schneider of NMFS and Mary Lou Soscia of EPA, WQT co-chairs, welcomed everyone to the meeting, held January 16 at the National Marine Fisheries Service offices in Portland, Oregon. The meeting was facilitated by Donna Silverberg. The meeting agenda and a list of attendees are attached as Enclosures A and B. Please note that some of the enclosures referenced in these meeting notes may be too lengthy to routinely attach to the minutes; please contact Kathy Ceballos (503/230-5420) to obtain copies.

1. SYSTDG Model Workshop.

Schneider reported that two workshop/training sessions on the SYSTDG model have been scheduled for February 27-28 and March 6-7 at the BPA computer training facility. Attendance at one of the sessions is mandatory for anyone who wishes to obtain a copy of the model. Schneider said he is acting as registrar for the sessions, and asked that anyone who wishes to attend contact him as soon as possible – capacity is limited to a total of 24 individuals for the two sessions. Each of the sessions is now about half-full, said Schneider, so again, if you or your agency wish to participate, please contact me as soon as possible.

In response to a question, Schneider said Mike Schneider will be sending him an agenda for the training sessions, which he will then forward to the participants. We will also be distributing an information sheet which will give the participants an opportunity to describe their background and interest in the model, so that Mike can tailor the classes to match the interests of the audience, Schneider said. Both of those items will likely be distributed in the next week or two, he added.

2. 2000 FCRPS Biological Opinion – Description of Section 9 and Appendix B.

Soscia distributed copies of various excerpts from the 2000 FCRPS Biological Opinion: the

table of contents, Section 9 (dealing with water quality), and Appendix B (covering the development of a Columbia River Mainstem Water Quality Plan). These documents are available as Enclosures C, D and E.

She noted that, at the last WQT meeting, the group devoted considerable discussion to the July 27 draft of the new BiOp, with the understanding that there would be more opportunity for discussion once the final BiOp was signed. That occurred on December 21, said Soscia, and these are the sections of the BiOp that deal most directly with water quality actions.

In general, said Soscia, Chapter 9 spells out the importance of water quality to the recovery of the listed species in the Snake and Columbia Rivers, while Appendix B lays out a more detailed conceptual water quality plan, describing how the federal parties, states, tribes and the public might move forward in addressing the most important water quality challenges facing the mainstem. Chapter 9 also includes a list of Reasonable and Prudent Alternatives (RPAs) for water quality, Soscia said; it also includes a commitment to such long-term goals as meeting water quality standards for gas. The BiOp does acknowledge that we have a spill program in the basin, and that there may be survival issues associated with trying to reduce gas to the 110% level, Soscia said; we are going to work to resolve that and other issues.

With respect to waivers, Soscia continued, under the new BiOp, the Corps has committed to taking whatever actions necessary to implement the spill program. The plan is for the Corps to work collaboratively with other federal entities, the states and the tribes to figure out what is necessary to implement the spill program. Dick Cassidy clarified one point, noting that the Corps is in the process of developing a strategy for the implementation of the spill program – that strategy is still being discussed internally at the Corps, and is not yet final, he said.

Greg Haller from the Nez Perce Tribe noted that the Tribe and, in all likelihood, the State of Idaho, are planning to send a letter to the Corps regarding TDG at Dworshak. The bottom line is that you can expect no TDG waiver to be issued for Dworshak this summer, Haller said. You should also be aware that the State of Idaho and the Nez Perce Tribe will be seeking the de-listing of the North Fork Clearwater and the mainstem for total dissolved gas from the 303 (d) list, he added.

In response to a question, Haller said Idaho and the Nez Perce will not be issuing a waiver for the spring period, either; he noted that there is considerable concern in Idaho about the winter draft at Dworshak, given the extremely poor snowpack outlook. Haller added that, because of the number of times the 110% TDG standard was exceeded in 2000, the State and Tribe will be asking that 109% TDG be the standard in 2001. A joint letter from the Nez Perce Tribe and Idaho expressing these concepts will be sent to General Strock next week, Haller said, with cc's to other appropriate agencies.

Russell Harding noted that the Washington Department of Ecology has issued a five-year waiver for the dissolved gas standard. At this point, the Environmental Quality Commission continues to

issue one year waivers. In recent years the Oregon Environmental Quality Commission has become very concerned about the later and later submission of staff reports in support of various recommendations and decisions that need to be made. Last year, for example, the Commission received the staff report on the spill program in support of the Spring Creek Hatchery release the day before their meeting. For that reason, said Harding, the Commission asked that the Spring Creek request be received by December 31, 2000. That date has now come and gone, Harding observed. If the waiver request is not received within the next few days – by this Friday, January 19, it may not be possible to develop the necessary staff report and provide the required 30-day public comment period. In short, he said, unless the request is received very soon, the Commission will likely not take up the Spring Creek waiver request until its May meeting.

Soscia then drew the group's attention to Enclosure E, the cover memo for Appendix B. This is an important legal document, worked out among the participants in Appendix B as the part of the BiOp that will clearly articulate how the region might move forward to integrate the Clean Water Act and the Endangered Species Act. One of the points this memorandum makes is that there are additional actions from a CWA perspective which are non-essential to the survival and recovery of the listed species the BiOp is intended to protect, and which are not required components of an ESA RPA. In other words, said Soscia, it is expected that work on those particular pieces will be deferred.

Next, Soscia highlighted the language on Page B-23 of Enclosure E, the section of Appendix B titled "New Water Quality Team." This text has changed little from the July draft of the BiOp, Soscia said; however, it will likely provide the basis for our next agenda item, the discussion of the WQT's next actions and activities.

Jim Ruff then drew the group's attention to the following language on Page 9-29 of the BiOp, which describes the water quality plan and its expected contents: "The Water Quality Improvement Plan will describe objectives, priorities and decision criteria for these measures in specific implementation plans. Given these objectives and priorities, the Plan will recommend FCRPS facility and operational improvements related to water quality, gas and temperature monitoring needs and related research. In developing the Water Quality Improvement Plan, the Water Quality Team will integrate and coordinate its recommendations with the annual Water Management and Capital Investment Plans." The group devoted a few minutes of discussion to all three documents, asking several clarifying questions.

3. Water Quality Team – Next Actions.

Silverberg prefaced this agenda item by noting that, at the last meeting of the Water Quality Team, various participants had expressed concerns about the idea of an expanded WQT – who would chair it, where it would meet, what role the TMDLs would play in its deliberations, whether it might be necessary to hold some meetings in Washington, etc.

Silverberg distributed a draft proposal, developed by her, Schneider, Ruff and Soscia, for how the reconstituted WQT might function. Silverberg noted that, according to this proposal, the new Water Quality Team would be chaired by EPA with assistance from NMFS. One of the primary purposes of the new WQT would be to provide a forum for the discussion and integration of water quality and TMDL efforts. The group's structure would include various subgroups, including one that would address spill and dissolved gas and one to address temperature issues.

In addition, said Silverberg, there would be a Water Quality Plan Information Monitor, whose job it would be to report back to the WQT on progress toward the development of the Water Quality Plan. Similarly, there would be a TMDL Information Monitor, who will report back to the WQT on the status of the TMDL development process. Silverberg said Mary Lou Soscia has volunteered to perform this task. In addition, said Silverberg, we envision that there would be a PUD/FERC Relicensing Monitor who would report back to the group on these issues, as well as a Subbasin Planning Monitor.

Silverberg continued on through the proposal, touching briefly on how the monthly presentations from each subgroup and monitor would be structured. The group then devoted a few minutes of discussion to this structural proposal. Chris Maynard suggested that it would make sense, in his view, for the new WQT to include a TMDL planning subgroup. Soscia also responded to concerns raised earlier by the Nez Perce Tribe by saying that the restructured WQT would not supercede current regulatory authorities; any violations to existing water quality standards will continue to be addressed through the channels that are already in place. She added that EPA is in the process of negotiating the regulatory framework for the mainstem TMDL, and will be abiding by whatever regulatory framework is agreed to.

With respect to the practical function of the new WQT, said Soscia, there is a responsibility to fully share information during the TMDL development and implementation processes. EPA is committed to a collaborative approach to the development of this TMDL; there are going to be key decision-points and other milestones at which it will be extremely important to get all of the key stakeholders together at a single table to help us decide the most appropriate direction in which to proceed, in terms of implementation. There is also a need to fully coordinate the TMDL development process with the development of the Water Quality Plan, so that those two efforts are complimentary, rather than conflicting, said Soscia. This is the forum in which EPA feels those discussions need to occur, she said, adding that, in her view, the actual planning and development of the mainstem TMDL will likely take place outside the WQT process.

Margaret Filardo expressed her disappointment with this conception of the WQT's future scope, in particular, the fact that the federal agencies envision the WQT as a group for discussion and information-sharing, not decision-making. Silverberg replied that the proposal developed by the subgroup is just that – a proposal. Frankly, she said, we were hoping to get broader participation in the development of the proposal; as Margaret's comment indicates, it isn't enough for Mark, Mary Lou

and I to sit down and decide on the future scope of the Water Quality Team.

Dick Cassidy observed that the discussion of the future role of the WQT has to start somewhere; he said his interpretation of the proposal is that it is essentially the same group, reorganized with a new chair and supporting groups that will allow it to focus on Clean Water Act as well as Endangered Species Act issues. My recommendation would be to use the newly-signed Clean Water Action Plan to help us develop cooperative actions designed to meet CWA requirements, said Cassidy; it is much broader in scope than just the agencies represented at this table today. The key advantage of the Clean Water Action Plan is that it would allow us to work directly with the states, tribes and other stakeholders to develop action plans, such as TMDLs, Cassidy said.

Soscia said that, from EPA's perspective, the key advantage of the WQT is that it is the only forum that is addressing mainstem water quality issues. There are two major water quality efforts ongoing in the region right now, she said -- the states and tribes are working to develop the mainstem TMDL, while the federal action agencies are trying to develop and implement the BiOp Water Quality Plan. To me, she said, the most important function for the Water Quality Team is to help lay out a strategy that will allow both of those efforts to end up in the same place -- a strategy for the Snake and Columbia River mainstems that we can all agree to.

The group devoted a few minutes of discussion to the most appropriate future role of the WQT, with some arguing for information exchange, discussion and ESA/CWA integration, and others for a more active decision-making and project development role. Ultimately, Soscia said that, in her view, the WQT representatives from each agency need to be people with the ability to make decisions for their agencies. We do need to be able to make decisions about how to move forward if we're going to develop a water quality plan we can all agree on, she said.

Schneider observed that, regardless of the scope of work the new WQT undertakes, the strength of the new group, to him, will be the specialized subgroups which will work their way through the technical tasks associated with water quality improvements. As they do that work, said Schneider, there will inevitably be conflicts between the technical and legal aspects of what needs to be done. Once we reach agreement on the technical path forward, he said, we could then ask the appropriate policy-level representatives to join us. That's essentially what the TMT and the SCT do, he said -- they deal with the technical issues, and when they run into a legal or policy issue they can't address, they elevate it to the IT.

Soscia noted that EPA intends to embark on an intensive public outreach/public involvement effort in support of the TMDL development process; she said she is taking the lead in developing that strategy for EPA. That strategy will include one-on-one involvement with industry and the various municipalities that will be affected by the TMDL, she said, as well as collaborative decision-making on the key policy and technical issues associated with the TMDL. The way we will likely do that is by sharing information through a group such as the Water Quality Team and getting feedback from people

on those critical decision-points, said Soscia; we will then make those decisions with the help of an advisory group. We see the Water Quality Team as a key component in that process, Soscia said, adding that she will share the draft of EPA's public outreach strategy with the WQT as soon as it is available.

Schneider noted that the new Biological Opinion assigns a number of specific tasks to the new Water Quality Team; he suggested that it would be useful for the group to refer to that document and develop a laundry-list of the tasks the WQT will be expected to accomplish. There was general agreement that this would be a good starting-point for the effort to define the WQT's future role.

After a few minutes of additional discussion, Silverberg asked what shape next month's WQT agenda might take, given today's discussion. By next month we will have a final MOA between the states and EPA on the TMDL, Soscia replied; we also hope to meet with the states to lay out a workplan for how the TMDL will proceed. We will also have a draft of the aforementioned public outreach strategy, she said. EPA would like to share information about that agreement at the next WQT meeting, as well as the workplan and the outreach strategy, Soscia said.

4. Next WQT Meeting Date.

The next meeting of the Water Quality Team was set for Tuesday, February 13, from 1 p.m. to 4 p.m. at NMFS' Portland offices. Meeting notes prepared by Jeff Kuechle, BPA contractor.